



**Service of Process
Transmittal**

10/23/2018

CT Log Number 534288805

TO: Mary Charlotte Doherty
Airgas, Inc.
259 N Radnor Chester Rd Ste 100
Radnor, PA 19087-5283

RE: Process Served in Louisiana

FOR: Airgas USA, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: LINDA G. FERGUSON AND BROOKSHIRE GROCERY CO., ETC., PLTFS. vs. WESTERN ENTERPRISES, ET AL., DFTS. // TO: Airgas USA, LLC

DOCUMENT(S) SERVED: CITATION, ATTACHMENT(S), PETITION, REQUEST(S)

COURT/AGENCY: 9th Judicial District Court, Parish of Rapides, LA
Case # 263283

NATURE OF ACTION: Product Liability Litigation - Personal Injury - gauge struck

ON WHOM PROCESS WAS SERVED: C T Corporation System, Baton Rouge, LA

DATE AND HOUR OF SERVICE: By Process Server on 10/23/2018 at 09:20

JURISDICTION SERVED : Louisiana

APPEARANCE OR ANSWER DUE: WITHIN 15 DAYS AFTER SERVICE HEREOF

ATTORNEY(S) / SENDER(S): CHRISTOPHER T. LEE
Professional Limited Liability Company
POST OFFICE BOX 3525
LAFAYETTE, LA 70502-3525
337-232-2390

ACTION ITEMS: CT has retained the current log, Retain Date: 10/25/2018, Expected Purge Date: 10/30/2018

Image SOP

Email Notification, Jennifer Zajac jennifer.zajac@airgas.com

Email Notification, Lola Lin Lola.Lin@airgas.com

Email Notification, Kathleen MacMurray Kat.MacMurray@airgas.com

Email Notification, Amy Bashore Amy.Bashore@airgas.com

Email Notification, Madelyn Mccleary Madelyn.Mccleary@airgas.com

Email Notification, Mary Charlotte Doherty Mary.Charlotte.Doherty@Airgas.com

SIGNED: C T Corporation System

ADDRESS: 3867 Plaza Tower Dr.



**Service of Process
Transmittal**

10/23/2018

CT Log Number 534288805

TO: Mary Charlotte Doherty
Airgas, Inc.
259 N Radnor Chester Rd Ste 100
Radnor, PA 19087-5283

RE: Process Served in Louisiana

FOR: Airgas USA, LLC (Domestic State: DE)

TELEPHONE:

Baton Rouge, LA 70816-4378
954-473-5503

Page 2 of 2 / NM

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.



ROBIN L. HOOTER

CLERK OF COURT ♦ RAPIDES PARISH

701 Murray Street, Suite 102, Alexandria, Louisiana 71301

Phone (318) 473-8153

Fax (318) 473-4667

Civil Fax (318) 487-9361

www.rapidesclerk.org

CITATION

NO. 263,283 F

LINDA G FERGUSON ET AL
VERSUS
WESTERN ENTERPRISES ET AL

|| NINTH JUDICIAL DISTRICT COURT
|| PARISH OF RAPIDES
|| STATE OF LOUISIANA

TO: AIRGAS USA LLC
THRU CT CORPORATION SYSTEM 3867 PLAZA TOWER DRIVE
BATON ROUGE LA 70816-0000
EAST BATON ROUGE PARISH

YOU ARE HEREBY SUMMONED TO COMPLY WITH THE DEMAND CONTAINED IN THE PLEADING(S) FILED IN THE ABOVE ENTITLED AND NUMBERED CAUSE, A DULY CERTIFIED COPY IS ATTACHED AND TO BE SERVED, OR FILE YOUR ANSWER OR OTHER PLEADINGS IN THE OFFICE OF THE CLERK OF THE NINTH JUDICIAL DISTRICT COURT, RAPIDES PARISH, CITY OF ALEXANDRIA, WITHIN FIFTEEN(15) DAYS AFTER SERVICE HEREOF. YOU MAY FILE YOUR WRITTEN ANSWER OR PLEADING IN PERSON OR BY MAIL. IF YOU FILE BY MAIL, THE PLEADING MUST BE RECEIVED BY THE 15TH DAY. YOUR FAILURE TO COMPLY WILL SUBJECT YOU TO THE PENALTY OF ENTRY OF DEFAULT JUDGMENT AGAINST YOU.

WITNESS THE HONORABLES, THE JUDGES OF SAID COURT, AT ALEXANDRIA, LOUISIANA,
THIS 16TH DAY OF OCTOBER, 2018.

THE FOLLOWING PLEADINGS ARE ATTACHED FOR SERVICE: PETITION.

ROBIN L. HOOTER
Clerk of Court

CHRISTOPHER T LEE
1015 ST JOHN STREET P O DRAWER 3768
LAFAYETTE LA 70502-3768
Filing Attorney

BY 
Deputy Clerk of Court

SHERIFF STAMP BELOW

263283 F

**LINDA G. FERGUSON AND
BROOKSHIRE GROCERY CO. D/B/A
SUPER 1 FOODS**

**DOCKET NO. DIVISION
9th JUDICIAL DISTRICT COURT**

VERSUS

**PARISH OF RAPIDES
STATE OF LOUISIANA**

**WESTERN ENTERPRISES, A SCOTT
FETZER COMPANY, AIRGAS USA, LLC,
AND KIMMJAE DISTRIBUTORS, INC.
D/B/A HI-RISE BALLOONS & FLORAL
SUPPLIES**

PETITION

NOW INTO COURT, through undersigned counsel, come LINDA G. FERGUSON ("FERGUSON"), a resident and domiciliary of Rapides Parish, Louisiana, and BROOKSHIRE GROCERY COMPANY D/B/A SUPER 1 FOODS, ("BROOKSHIRE'S"), a Texas corporation which is authorized to do and doing business in the State of Louisiana, which together, as Petitioners, respectfully aver, allege, and plead as follows:

1.

Made defendants herein are:

WESTERN ENTERPRISES ("WESTERN"), a division of the Scott Fetzer Company, an Ohio corporation not authorized to do but doing business in the State of Louisiana;

AIRGAS USA, LLC ("AIRGAS"), a foreign limited liability company authorized to do and doing business in Louisiana; and

KIMMJAE DISTRIBUTORS, INC. D/B/A HI-RISE BALLOONS AND FLORAL SUPPLIES ("HI-RISE"), a Texas corporation not authorized to do but doing business in the State of Louisiana.

2.

On October 24, 2017, FERGUSON was working as an employee of BROOKSHIRE'S in the floral department at the BROOKSHIRE'S store located at 3123 Hwy. 28 East, Pineville, Louisiana 71360.

3.

On the date in question, while in the course and scope of her employment with BROOKSHIRE'S, FERGUSON properly placed a "Westwinds" helium Inflator and gauge assembly, model #CGA580 (hereinafter referred to as the "Westwinds Inflator"), onto a newly supplied helium tank and opened the tank's valve, at which point the pressure gauge on the inflator exploded and the glass cover from the pressure gauge struck FERGUSON'S head and right eye causing her severe and disabling injury to mind and body.

4.

BROOKSHIRE'S had purchased the Westwinds Inflator (along with other similar Westwind Inflator assemblies) from HI-RISE. Upon information and belief, the Westwinds Inflator was manufactured by WESTERN, and the helium tank in question was filled and supplied by AIRGAS.

5.

Petitioners assert that the Westwinds Inflator, which failed during a normal and reasonably anticipated use of the product, was defective and unreasonably dangerous as set forth below:

- a. It was unreasonably dangerous in its construction and composition;
- b. It was unreasonably dangerous in its design; and
- c. It was unreasonably dangerous because of an inadequate warning.

6.

As the manufacturer of a product which possesses a characteristic that renders it unreasonably dangerous, WESTERN is liable to Petitioners for all damages sustained as a result of that product.

7.

Further, upon information and belief, the helium tank in question, upon which the Westwinds Inflator was affixed when the subject incident occurred, was over-filled with helium by AIRGAS which contributed to the failure of the Westwinds Inflator and its pressure gauge.

8.

Petitioners assert that AIRGAS was negligent for failing to take proper precautions to ensure that the helium tank in question was not over-filled upon delivery to BROOKSHIRE'S, and that, as a result of its negligence, Petitioners sustained injuries and damages for which AIRGAS is liable.

9.

Petitioners assert that the defendants are liable for FERGUSON'S injuries and for the following damages sustained as a result of the subject incident:

- a. Past and future physical pain and suffering;
- b. Past and future mental anguish and emotional distress;
- c. Permanent disability and impairment;

- d. Loss of income and impairment of future earning capacity;
- e. Loss of enjoyment of life;
- f. Inconvenience and humiliation; and
- g. Past and future medical expenses.

10.

Pursuant to the provisions and requirements under the Louisiana Workers' Compensation Laws, BROOKSHIRE'S has sustained property damages and has paid and continues to pay indemnity benefits, medical benefits and related expenses to or on behalf of FERGUSON as a result of injuries she allegedly sustained from the subject incident, due to the sole fault and negligence of WESTERN and AIRGAS.

11.

BROOKSHIRE'S became obligated to pay the indemnity benefits, medical benefits and related expenses as required under Louisiana Workers' Compensation Law to or on behalf of FERGUSON solely as a result of the negligence and/or other wrongful conduct of WESTERN and AIRGAS.

12.

Since FERGUSON was paid workers' compensation benefits pursuant to the provisions of Louisiana Workers' Compensation Law pursuant to La. R.S. 23:1101, *et seq.*, and/or any applicable laws, BROOKSHIRE'S is subrogated to all rights of FERGUSON and is entitled to full reimbursement and indemnity from WESTERN and AIRGAS and/or any culpable party for all property and related damages, indemnity benefits, medical expenses, and related benefits including but not limited to those which will be paid by BROOKSHIRE'S to or on behalf of FERGUSON, and for all property damages, and indemnity benefits, medical expenses and related expenses which BROOKSHIRE'S has incurred and/or is obligated to pay in the future, which were incurred as a result of the subject incident.

13.

Adopting and incorporating the facts and allegations pled in paragraphs 3-5 above, BROOKSHIRE'S also asserts that the Westwinds Inflator involved in the October 24, 2017 incident, which was purchased from HI-RISE, contained a defect which rendered the thing useless, or its use so inconvenient, that BROOKSHIRE'S would not have purchased the thing had it known of the defect.

14.

BROOKSHIRE'S further asserts, upon information and belief, that the other Westwinds Inflator products purchased from HI-RISE likewise possess defects which render them useless, or their use so inconvenient, that BROOKSHIRE'S would not have purchased them had it known of the defects. In fact, as a result of the October 24, 2017 incident and its discovery of the defect(s), BROOKSHIRE'S has been forced to remove from service all other similar Westwind Inflator assemblies that were purchased from HI-RISE.

15.

Accordingly, BROOKSHIRE'S is entitled to full rescission of the sale and return of the purchase price of all defective Westwinds Inflators purchased from HI-RISE, along with any other damages and attorney fees incurred by BROOKSHIRE'S to the extent permitted by law.

WHEREFORE, Petitioner, LINDA G. FERGUSON, prays that defendants, WESTERN ENTERPRISES and AIRGAS USA, LLC be served with a certified copy of this Petition and be required to answer the same within the delays provided by law; and after the expiration of legal delays and due proceedings be had, that there be judgment rendered in her favor and against defendants in an amount reasonable in the premises for all injuries and damages sustained by her as a result of the October 24, 2017 incident, plus legal interest thereon from the date of judicial demand from the filing of this pleading until paid, and for all costs of these proceedings and for all just and equitable relief.

And, Petitioner, BROOKSHIRE'S GROCERY COMPANY D/B/A SUPER 1 FOODS, prays that defendants, WESTERN ENTERPRISES, AIRGAS USA, LLC, and KIMMJAE DISTRIBUTORS, INC. D/B/A HI-RISE BALLOONS & FLORAL SUPPLIES, be served with a certified copy of this Petition and be required to answer the same within the delays provided by law; and after the expiration of legal delays and due proceedings be had, that there be judgment rendered herein and in favor of BROOKSHIRE'S against defendant, HI-RISE, for full rescission of the sale and return of the purchase price of all defective Westwinds Inflators purchased from HI-RISE, along with all recoverable damages and attorney fees together with all applicable legal interest thereon, and against defendants, WESTERN and AIRGAS, for all property and related damages, workers' compensation benefits, indemnity benefits, medical benefits, and related benefits for which BROOKSHIRE'S has incurred, paid, and/or becomes obligated to pay

including but not limited to those paid and/or incurred to and/or on behalf of FERGUSON, and for all damages sustained by BROOKSHIRE'S in a sum reasonable in the premises, with legal interest thereon from the date of judicial demand from the filing of the initial pleading in this matter until paid, and for all costs of these proceedings and for all just and equitable relief.

By Attorneys:

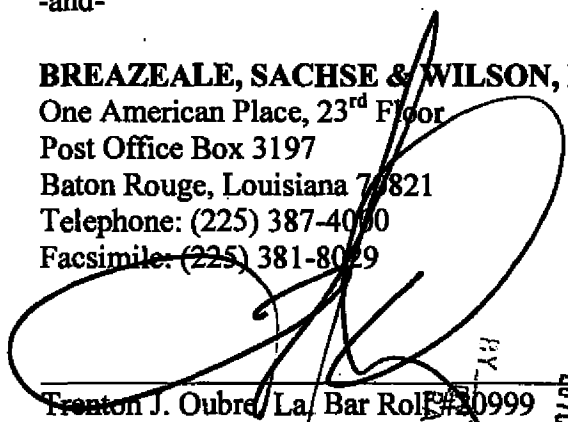
CHRISTOPHER T. LEE
Professional Limited Liability Company

BY:  10/12/18

CHRISTOPHER T. LEE #21707
Post Office Box 3525
Lafayette, Louisiana 70502-3525
Telephone: (337) 232-2390
Fax: (337) 232-2375
Counsel for Linda G. Ferguson

-and-

BREAZEALE, SACHSE & WILSON, L.L.P.
One American Place, 23rd Floor
Post Office Box 3197
Baton Rouge, Louisiana 70821
Telephone: (225) 387-4000
Facsimile: (225) 381-8029


Trenton J. Oubre, La. Bar Roll #20999
Chris D. Billings, La. Bar Roll #20999
Counsel for Brookshire Grocery Company

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2018 OCT 12 AM 11:54
BY
CLERK & RECORDED
PARISH LA.

PLEASE SERVE:

Airgas USA, LLC
C T Corporation System
3867 Plaza Tower Dr.
Baton Rouge, Louisiana 70816

SERVICE THROUGH THE LOUISIANA LONG ARM STATUTE

Western Enterprises, a division of the Scott Fetzer Company
through its registered agent,
Corporate Creations Network, Inc.
119 E. Court Street
Cincinnati, Ohio 45202

SERVICE THROUGH THE LOUISIANA LONG ARM STATUTE

Kimmjae Distributors, Inc. d/b/a Hi-Rise Balloons & Floral Supplies
through its President and registered agent, James H. Stotts
4522 Burnett Road,
Austin, Texas 78756

LINDA G. FERGUSON AND
BROOKSHIRE GROCERY CO. D/B/A
SUPER 1 FOODS

DOCKET NO.

DIVISION F

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

VERSUS

WESTERN ENTERPRISES, A SCOTT
FETZER COMPANY, AIRGAS USA, LLC,
AND KIMMJAЕ DISTRIBUTORS, INC.
D/B/A HI-RISE BALLOONS & FLORAL
SUPPLIES

REQUEST FOR WRITTEN NOTICE

In accordance with the provisions of Articles 1571 and 1572 of the Louisiana Code of Civil Procedure, you are hereby requested to give the undersigned, as counsel for the named Plaintiff, Linda G. Ferguson, written notice, by mail, at least ten (10) days in advance of any date fixed for any trial or hearing in this case.

In accordance with the provisions of Articles 1913 and 1914 of the Louisiana Code of Civil Procedure, you are also requested to send us notice of any Order or Judgment in this cause upon the entry of any such Order or Judgment.

THUS DONE AND SIGNED in Lafayette, Louisiana on this 17 day of October, 2018.

CHRISTOPHER T. LEE
Professional Limited Liability Company

BY: 

CHRISTOPHER T. LEE #21707
Post Office Box 3525
Lafayette, Louisiana 70502-3525
Telephone: (337) 232-2390
Fax: (337) 232-2375
Counsel for Linda G. Ferguson

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2018 OCT 12 AM 11:54
BY CLERK & RECORDED
RAPIDES PARISH LA

LINDA G. FERGUSON AND
BROOKSHIRE GROCERY CO. D/B/A
SUPER 1 FOODS

263/283
DOCKET NO. DIVISION F
9th JUDICIAL DISTRICT COURT
PARISH OF RAPIDES
STATE OF LOUISIANA

VERSUS

WESTERN ENTERPRISES, A SCOTT
FETZER COMPANY, AIRGAS USA, LLC,
AND KIMMIAE DISTRIBUTORS, INC.
D/B/A HI-RISE BALLOONS & FLORAL
SUPPLIES

REQUEST FOR WRITTEN NOTICE

In accordance with the provisions of Articles 1571 and 1572 of the Louisiana Code of Civil Procedure, you are hereby requested to give the undersigned, as counsel for the named Brookshire Grocery Company, written notice, by mail, at least ten (10) days in advance of any date fixed for any trial or hearing in this case.

In accordance with the provisions of Articles 1913 and 1914 of the Louisiana Code of Civil Procedure, you are also requested to send us notice of any Order or Judgment in this cause upon the entry of any such Order or Judgment.

THUS DONE AND SIGNED in Baton Rouge, Louisiana on this 10th day of October, 2018.

BREAZEALE, SACHSE & WILSON, L.L.P.
One American Place, 23rd Floor
Post Office Box 3197
Baton Rouge, Louisiana 70821
Telephone: (225) 387-4000
Facsimile: (225) 381-8029

Trenton J. Oubre, La. Bar Roll #20999
Chris D. Billings, La. Bar Roll #31621
Counsel for Brookshire Grocery Company

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2018 OCT 12 AM 11:54
PARISH OF RAPIDES

STATE OF LOUISIANA, PARISH OF RAPIDES
I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS
A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE
AND OF RECORD IN THIS OFFICE.
IN FAITH, WHEREOF, WITNESS MY HAND AND SEAL OF
OFFICE, AT ALEXANDRIA, LOUISIANA, THIS 10th
DAY OF OCTOBER, A.D. 20 18
BY Robin L. Hooter
DY. CLERK OF COURT